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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,656	08/02/2002	Lynn D. Stomski	STOMP002US	3724

27949 7590 03/29/2004

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EXAMINER

FOX, CHARLES A

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/064,656

Applicant(s)

STOMSKI, LYNN D.

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-25 and 27-31 is/are rejected.
- 7) ☒ Claim(s) 12 and 26 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

***Specification***

The disclosure is objected to because of the following informalities: reference numeral 15 is referred to as both a 'tow leg' and a 'mating means'. A single component should have the same label throughout the application.

Appropriate correction is required.

***Claim Objections***

Claim1 is objected to because of the following informalities: claim 1 should be numbered as 1 not d1. Appropriate correction is required.

Claims 16 and 31 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16 and 31 have the limitation of mating the wheel lift device to the vehicle carrier. This limitation is clearly stated in claims1 and 29 respectively.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11,15-25 and 29-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kern in view of Farthing. In regards to claims 1-4 and 10,15,16 Kern US 2,754,987 teaches a method of towing a vehicle on a trailer comprising the steps of:

- mating a vehicle carrier (10) to a transport vehicle;
- tilting said vehicle carrier into a loading position by raising the front of said carrier;
- loading a vehicle onto said carrier;
- further tilting said carrier into a travel position by lowering the front end of said carrier;
- moving the vehicle to a second location;
- placing said carrier in the load unload position;
- unloading said vehicle from the carrier. Kern does not teach using a tow truck to move the vehicle carrier.

Farthing US 4,712,967 teaches a method of towing a vehicle comprising the steps of:

- connecting a tow platform (10) to the wheel lift device of a tow truck;
- securing the platform to the towing vehicle with chains;
- loading a car onto said tow platform;
- using said wheel lift device to move the tow platform into a travel position;
- towing said tow platform and any vehicle thereon with said wheel lift mechanism serving as a hitch to said tow truck.

It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the methods taught by Kern by tilting the vehicle carrier as taught by Farthing in order to allow a standard vehicle towing vehicle to pull the carrier, thus allowing a single piece of equipment (a tow truck) to be used as needed to tow a disabled vehicle, thereby decreasing the equipment costs for the operator.

In regards to claims 5 and 6 Kern further teaches the step of pivoting the vehicle carrier about wheels (11) when placing the carrier into and out of the load/unload position.

In regards to claims 7 and 8 Kern also teaches the step of using wheels to allow the vehicle carrier to be moved.

In regards to claim 9 Kern also teaches maintaining the tow bed such that a bend in said tow bed positioned and angles and located proximate to said wheel axle;

wherein said tow bed forward of said bend is substantially parallel with the ground when in the travel position;

and that the tow bed aft of the bend touches the ground when in the load/unload position;

wherein said wheeled axle is attached to tires for contacting the ground.

In regards to claims 17,18,21 Kern teaches a vehicle carrier apparatus comprising:

a tow bed (10) of sufficient length to carry at least one vehicle;

tilting means for enabling the tow bed to be moved into a load/unload position by raising the front end of said tow bed;

whereby said tow bed can be lowered to place it in a travel position;

travel means (11) allowing the tow bed to travel over ground.

Kern does not teach raising or lowering the front of the tow bed with a wheel lift device. Farthing teaches a vehicle transport device comprising:

a wheel lift apparatus (16) on a tow truck (18) to place a load platform (10) in a load/unload position and a travel position;

whereby the wheel lift apparatus serves as a hitch for said load platform;

travel means (12) for allowing the platform to roll over ground;

wherein moving said wheel lift device when connected to the load platform will similarly move said load platform. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the tow bed taught by Kern with a lift device as taught by Farthing in order to allow a single vehicle to perform a plurality of towing tasks, thereby saving the operator money in terms of equipment costs.

In regards to claims 19,20 and 22 Kern also teaches that said tilting means (11) comprises a wheeled axle positioned such that raising or lowering the front of the tow bed causes the tow bed to pivot about said axle, and that the tow bed will move similarly to the device lifting the front of the tow bed.

In regards to claim 23 Kern further teaches that said tow bed comprises:

a bend in said tow bed positioned and angled and located proximate to said wheel axle;

wherein said tow bed forward of said bend is substantially parallel with the ground when in the travel position;

and that the tow bed aft of the bend touches the ground when in the load/unload position;

wherein said wheeled axle is attached to tires for contacting the ground.

In regards to claims 11,24 and 25 Farthing further teaches securing the load platform to the wheel lift device with chains to prevent lateral and vertical movement of the load platform in relation to the wheel lift device.

In regards to claims 29-31 the specification on page 5 paragraph 16 states the equivalency of a conventional tow truck with that of a tow truck using a wheel lift device. As such the Farthing reference teaches using a conventional tow truck for mating with device for towing a vehicle. It would have been obvious to one of ordinary skill in the art, at the time of invention to modify the apparatus taught by Kern so a towing vehicle as taught by farthing could tow the tow bed in order to allow the owner of the equipment to have a greater range of services to provide with lower equipment costs.

Claims 13,14,27 and 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Kern in view of Farthing as applied to claims 1,9<sub>1</sub>7 and 23 above, and further in view of Mann. Kern and farthing teach the limitations of claims 1,9<sub>1</sub>7 and 23 as above, they do not teach two vehicles being transported by said tow bed. Mann US 5,775,868 teaches providing a tow bed (4) on a tilt trailer that is configured to hold at least two automobiles. See figure 15. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the tow bed taught by Kern with the size to carry more than one automobile as taught by Mann in order to allow the device to move

multiple vehicles in a single trip if needed, thereby allowing the operator to perform more work in less time.

***Allowable Subject Matter***

Claims 12 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The closest prior art of Farthing does not teach or suggest providing two tow legs on his device or securing the tow bed to the T-bar of the transport vehicle as outlined in claim 26.

The prior art made of record and not relied upon, but considered pertinent to applicant's disclosure is: Braathen 1981, Wilcox, Jr. 1983 and Youmans et al. 1999.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 703-605-4294. The examiner can normally be reached between 7:00-5:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached at 703-308-3248. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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